

Decision **DRAFT DECISION OF ALJ BUSHEY** (Mailed 2/15/2005)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of San Gabriel Valley Water Company (U 377 W) for Authority to Implement a Low-Income Rate in its Los Angeles Division in Compliance with Decision 02-10-058 in Application 01-10-028.

Application 03-04-025  
(Filed April 24, 2003)

**OPINION CONCLUDING CONSIDERATION OF PROPOSALS  
FOR LOW-INCOME RESIDENTS**

**Summary**

This decision summarizes the thorough consideration of several innovative “low-income rate” proposals for residents of San Gabriel Valley Water Company’s (San Gabriel) service territory. Unfortunately the record shows that current proposals would not equitably reach low-income residents. The key problem (among others) is that a substantial share of low-income residents live in multi-family dwellings, such as apartments and condominiums, which do not have separate water meters for each unit. Consequently, these residents are not direct customers of San Gabriel, and this circumstance imposes significant practical barriers to extending low-income water rates to these residents. We reluctantly conclude that we have exhaustively considered all current proposals and are unable to devise a feasible program that would fairly benefit the low-income residents in San Gabriel’s service territory. Accordingly, this proceeding should be closed.

**Background**

In Decision (D.) 02-10-058, the Commission rejected San Gabriel's first low-income rate proposal. The Commission found that San Gabriel had not demonstrated that its proposed tariff would "fairly reach all low-income persons in San Gabriel's service territory," and directed San Gabriel to file a revised low-income tariff within 180 days.

On April 22, 2003, San Gabriel San Gabriel filed this application seeking Commission authorization to implement a new program, "California Alternative Rates for Water," designed to offer discounted rates to San Gabriel's low-income customers. The Office of Ratepayer Advocates (ORA) submitted a protest to the application, which did not oppose San Gabriel's program and supported San Gabriel's request that the Commission open a rulemaking into low-income water rates for all water utilities.

The Assigned Commissioner and Administrative Law Judge (ALJ) issued a joint ruling setting a prehearing conference and directing the parties to file and serve prehearing conference statements. Among the issues to be addressed in the prehearing conference statements were two proposals for delivering the low-income discount to residents of multi-family housing, who are not typically direct customers of San Gabriel.<sup>1</sup>

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<sup>1</sup> Most apartment buildings and some condominiums do not separately meter water for each unit. A single, large meter serves the entire building and the landlord or Homeowners Association is responsible for the bill. These costs are passed on to residents via the rental payment or homeowner fees. While these residents are not direct customers of San Gabriel, they receive all their water from San Gabriel, and we therefore refer to them as indirect customers.

One proposal sought to capitalize on the fact that most apartments are separately metered for electricity and billed directly by the electric utility. As San Gabriel's tariff proposal would adopt the electric utility's eligibility criteria, the eligible electric utility customers in multi-family dwellings would also be qualified for San Gabriel's discount. Thus, this proposal involved having the electric utilities include the water discount on the electric bill to residents of multi-family dwellings in San Gabriel's service territory. In response to this proposal, Southern California Edison Company (Edison) and San Diego Gas & Electric/Southern California Gas Company (San Diego) intervened in this proceeding, and opposed the electric bill proposal. The electric utilities stated that electric bills already contain too much information and should not "be further burdened in providing a discount for services that they don't provide." The electric utilities also presented numerous practical problems for including a mechanism for recovering any costs from San Gabriel. San Diego concluded that extending a utility rate discount to noncustomers (even indirect customers) was infeasible and contrary to sound public policy.

The other proposal involved issuing coupons to tenants which could be used to pay rent, and landlords would then redeem the coupons in paying the water bill. Edison suggested a modification to this proposal whereby San Gabriel would simply send a check to all eligible residents. The parties readily agreed that persuading all landlords to accept the coupons in lieu of partial rent payments would be impossible. San Gabriel pointed out that the cost of sending checks could exceed the value of the checks. Thus, neither this proposal nor the electric bill proposed was considered further.

On January 27, 2004, the parties participated in a prehearing conference that included a thorough discussion of the issues. The electric companies

explained that they maintain data on their customers who participate in their low-income program, and that these customers have agreed to allow these data to be shared with other utilities for the purpose of additional discounts. The electric utilities agreed to use these data to assist San Gabriel in evaluating its low-income proposal. San Gabriel, ORA, and the electric utilities agreed to work cooperatively to resolve the outstanding issues in this proceeding, and for ORA and San Gabriel to develop a joint proposal.

On June 4, 2004, San Gabriel and ORA reported on their efforts to develop a joint proposal in this proceeding. The parties stated that the following issues remained outstanding:

1. The amount of the discount to be extended to program participants,
2. Whether the program should include submetered residents of multi-family dwelling units,
3. Whether homeless shelters and group living facilities should receive any discount under the program, and
4. When and how the costs of the program should be recovered.

The parties stated that continued discussions could be fruitful and recommended a procedural schedule that would allow the parties to continue to work toward a joint recommendation yet move forward with testimony if the parties could reach agreement on the above issues. The parties proposed a schedule culminating with hearings in October 2004.

In D.04-07-034 for San Gabriel's Fontana division, the Commission directed, among other things, that the outcome of this proceeding for the Los Angeles division would be extended to the Fontana division as well.

In response to a follow-up inquiry from the assigned ALJ, San Gabriel filed additional information on the likely participation rate for single family and multifamily residents, based on information from Edison, for both the Fontana and Los Angeles divisions. San Gabriel also included up-to-date cost estimates. The likely participation rate data are reproduced below:

|  | <b>SINGLE FAMILY</b> |       | <b>MULTI-FAMILY</b> |       | <b>TOTAL</b> |
|--|----------------------|-------|---------------------|-------|--------------|
| Households                             | 80,208               | 72.5% | 30,427              | 27.5% | 110,635      |
| Low-Income                             | 25,422               | 66.0% | 13,093              | 34.0% | 38,515       |
| Eligible for<br>Low Income<br>Rate (%) | 31.7%                |       | 43%                 |       | 34.8%        |

San Gabriel does not directly serve residents of multi-family housing and, consequently, it has no direct means to offer these residents discounted water service. Based on the data provided by Edison, 43% of multi-family residents (about 13,000 total) would be income eligible for the program but inaccessible. This represents about one-third of the total San Gabriel service territory eligible residents (about 38,500 total). Thus, the data provided by the electric utilities show that San Gabriel's tariff proposal will miss approximately one-third of the income eligible residents of its service territory.

On August 25, 2004, the assigned Commissioner and ALJ issued a ruling summarizing the above data and comparing it to the Commission's directives in D.02-10-058. The ruling noted that the Commission required low-income tariffs to be "equitably offered to low-income persons" and that San Gabriel's proposal would offer a low-income tariff to about two thirds of the eligible residents. The assigned Commissioner and ALJ concluded that a low-income rate proposal that will not reach one-third of its intended recipients is not equitable.

The ruling also noted a concern the Commission expressed in D.02-10-058, namely, that landlords will be assessed a share of costs of a low-income rate program and will pass through these costs to multi-family residents. The new data summarized in the ruling show that multi-family residents are disproportionately income eligible for any such the program and thus added additional weight to the Commission's concerns.

The assigned Commissioner and ALJ concluded that, as filed, the basic structure of San Gabriel's tariff did not meet the requirements of D.02-10-058, and that the parties had informally evaluated and rejected all currently available suggestions to address this substantial defect. Consequently, they decided that the low-income tariff approach should not be pursued further. However, the Commissioner and ALJ saw promise in an entirely different approach, namely, extending substantially discounted water service to non-profit groups that serve low-income clients. The parties were directed to review this approach and submit status reports.

On December 15, 2004, San Gabriel filed its status report and explained that Edison's records show only three nonprofit groups that serve low-income clients in San Gabriel's Los Angeles division and none in the Fontana division. Thus, these organizations reach only a small share of low-income residents in Los Angeles division and no residents in Fontana. San Gabriel concluded that despite best efforts, along with ORA, they are unable to develop a low-income program that meets the Commission's requirements. San Gabriel requested that this docket be closed and any further review of the question be done in an industry-wide rulemaking or investigation.

ORA also filed a status report opposed to adopting a low-income program that extends benefits only to non-profit groups. ORA, however, supported a

program that offers a discount to low-income metered or sub-metered customers. ORA agreed that any further consideration of this type of proposal should be done in an industry-wide proceeding.

### **Discussion**

In § 739.8<sup>2</sup> the Legislature decreed that “the Commission shall consider and may implement programs to provide rate relief for low income ratepayers.” As the summary above demonstrates, the parties have reviewed and analyzed a series of innovative proposals over the nearly two-year duration of this proceeding. Even with the helpful assistance of the electric utilities, the parties have been unable to propose a feasible means to address the significant deficiencies we have previously identified.

Low-income residents of multi-family housing are not San Gabriel’s direct customers, and San Gabriel has no readily apparent means to bridge the gap to the indirect customers. Such customers comprise about one-third of income eligible residents. Thus, any program that would exclude indirect customers would miss about one-third of the intended recipients and would not be equitably available.

We are particularly concerned with the potential for the excluded one third to be assessed a share of the costs of the program, further exacerbating the inequality. The data provided by Edison shows that 43% of multi-family dwelling residents are income-eligible for the program. As San Gabriel’s proposal would assess costs to all non-participants, and landlords and homeowner associations are unlikely to absorb the increased costs, multi-family

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<sup>2</sup> All citations are to the Public Utilities Code.

dwelling residents would likely be assessed the costs of the low-income program. This potential outcome strongly counsels against any proposal that would exclude indirect customers.

Therefore, we conclude that we have complied with § 739.8 by thoroughly considering numerous options for extending rate relief to low-income ratepayers. Unfortunately, at this time, we are unable to implement such a program.<sup>3</sup>

We reluctantly reach this conclusion in light of the parties' innovative and long-standing, but ultimately unsuccessful, efforts to create a low-income program that meets our requirements. We remain steadfastly committed to implementing a low-income rate program for water customers, and we would welcome any proposals that meet our requirements. We will direct our staff to continue their efforts to seek out practices from other jurisdictions that might assist us in attaining this goal.

### **Categorization and Need for Hearings**

This proceeding is categorized as ratesetting. No party has objected, and the categorization shall not be changed. This proceeding was preliminarily designated as requiring hearings. The record of the proceeding is comprised of numerous filings by the parties as well as a prehearing conference transcript. The record provides sufficient information for us to evaluate the issues presented. No hearing is necessary.

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<sup>3</sup> While the conclusions in today's decision apply only to San Gabriel districts, other Class A water utilities that may be considering low-income programs should evaluate and address these issues in any application for Commission authorization.



**Comments on Draft Decision**

The draft decision of the assigned administrative law judge (ALJ) was mailed to the parties in accordance with § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. San Gabriel filed comments supporting the draft decision, and recommending that the Commission open an industry-wide proceeding to consider this issue.

ORA also filed comments and contended that the draft decision reflected legal error because § 739.8 only requires the Commission to consider rate relief for low-income ratepayers and not indirect customers. San Gabriel filed reply comments opposing ORA's interpretation of the statute, and contending that the draft decision was in full compliance with § 739.8.

We are not prepared to ignore the practical reality that residents of multi-family dwellings receive water from San Gabriel, and indirectly pay for such service through rent or other payments. These residents are disproportionately income-eligible for a low-income rate program and not only would be excluded from participation, but would likely pay a share of the costs of the program. The disparate treatment of income eligible-residents based on type of dwelling unit is not equitable. In no way does § 739.8 prohibit us from considering these consequences of San Gabriel's proposal. We, therefore, are not persuaded to adopt ORA's reading of § 739.8.

**Assignment of Proceeding**

Geoffrey F. Brown is the Assigned Commissioner and Maribeth A. Bushey is the assigned ALJ in this proceeding.

**Findings of Fact**

1. San Gabriel filed this application in an effort to cure the deficiencies noted in D.02-10-058.

2. The parties have thoroughly reviewed numerous proposals but all of them have been shown to be deficient in equitability, or both.

3. No hearing is necessary.

**Conclusions of Law**

1. The Legislature directed the Commission to “consider” programs that would provide rate relief to low-income water utility customers in § 739.8.

2. The record in this proceeding shows that the parties have thoroughly considered numerous alternatives, but none of the alternatives would create an equitable and feasible program.

3. The Commission has met the requirements of § 739.8.

4. This proceeding should be closed.

5. This decision should be effective immediately.

**O R D E R**

**IT IS ORDERED** that Application 03-04-025 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.